IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI WESTERN DIVISION

ERIC BROWN AND VIRGINIA W. BROWN

PLAINTIFFS

VS.

CIVIL ACTION NO. 5:07-cv-61(DCB)(JMR)

WILKINSON COUNTY, MISSISSIPPI; CHRISTOPHER JAMES, Individually, and in his Capacity as Deputy Sheriff; and JOHN DOES A-G

DEFENDANTS

ORDER

This cause is before the Court on the plaintiffs' motion to remand (docket entry 3). Having carefully reviewed the motion and response, and being fully advised in the premises, the Court finds as follows:

The plaintiffs filed this action on December 22, 2006, in the Circuit Court of Wilkinson County, Mississippi. On March 26, 2007, the defendants removed based on the plaintiffs' allegations of violations of their constitutional rights, giving rise to federal question subject matter jurisdiction. The parties agree that the defendants received notice of the plaintiffs' complaint on February 22, 2007. The plaintiffs contend that because the notice of removal was not filed within thirty days of February 22, 2007, this case should be remanded.

A notice of removal must be filed within thirty days "after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter." 28 U.S.C. § 1446(b). Federal Rule of Civil Procedure 6(a) provides: "In computing any period of time prescribed or allowed ... by any applicable statute ... [t]he last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday ... in which event the period runs until the end of the next day which is not one of the aforementioned days." Rule 6 applies to 28 U.S.C. 1446(b)'s thirty day requirement. See Howard v. CitiFinancial, Inc., 195 F.Supp.2d 811 (S.D. Miss. 2002).

Because the thirtieth day, March 24, 2007, fell on a Saturday, the defendants' notice of removal was timely filed on the following Monday, March 26, 2007. The plaintiffs' motion to remand shall therefore be denied. Accordingly,

IT IS HEREBY ORDERED that the plaintiffs' motion to remand (docket entry 3) is DENIED.

SO ORDERED, this the 15^{th} day of January, 2008.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE

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